

VZCZCXRO0523
OO RUEHFL RUEHKW RUEHLA RUEHROV RUEHSR
DE RUEHRO #0960/01 2131728
ZNY CCCCC ZZH
O 311728Z JUL 08
FM AMEMBASSY ROME
TO RUEHC/SECSTATE WASHDC IMMEDIATE 0684
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE PRIORITY
RUEHROV/AMEMBASSY VATICAN PRIORITY 0803
RUEHMIL/AMCONSUL MILAN PRIORITY 9492
RUEHFL/AMCONSUL FLORENCE PRIORITY 3144
RUEHNP/AMCONSUL NAPLES PRIORITY 3291

C O N F I D E N T I A L SECTION 01 OF 02 ROME 000960

SIPDIS

DEPARTMENT FOR EUR/WE

E.O. 12958: DECL: 07/31/2018

TAGS: [PGOV](#) [PHUM](#) [IT](#)

SUBJECT: ITALY PASSES NEW SECURITY LAW

ROME 00000960 001.2 OF 002

Classified By: A/Political M/C Gabriel Escobar for reasons 1.4 (b) and (d).

¶1. (C) SUMMARY: The Italian Senate approved the security package on July 25, finalizing one of the more controversial and complicated pieces of legislation passed since the Berlusconi government took office in May. Rooted in campaign promises to improve security on Italian streets and crack down on organized crime, criticisms have targeted the tougher penalties linked to illegal immigration and provisions designed to neutralize the premier's personal legal problems. The parts of the package that have drawn the most attention focus on illegal immigration, fast-tracking serious crimes, raising penalties for public order offenses, and allowing up to 3,000 troops to patrol Italian streets. END SUMMARY.

TOUGHER PENALTIES FOR ILLEGAL IMMIGRANTS

¶2. (U) The package introduces new powers and higher penalties for activities related to illegal immigration. With its extensive coastline and island outposts, Italy is an obvious destination for immigrants attempting to enter clandestinely the European Union by sea. Italy's temporary detention centers will be transformed into "centers of identification and expulsion," where suspected illegal migrants can be detained for up to 18 months while authorities seek to establish their identity. Before, people could be held for only 2 months. Though widely criticized, this is consistent with a June EU directive on immigration.

¶3. (U) People who profit from illegal immigration face stiffer punishment. Landlords who lease property to illegal immigrants can receive up to three years in jail and have the rental property confiscated. Penalties for hiring immigrants without work permits have been tightened.

¶4. (U) Immigrants from other EU countries may also find a less forgiving environment. Registration will be required to be considered a legal resident, and residence permits for immediate relatives of legal immigrants have become more restrictive. If convicted of a crime, illegal or non-registered residents may find their sentences lengthened by a third. Judges have greater discretion to expel foreign nationals who commit crimes, and those sentenced to two years or more in jail will be expelled. Previously, the threshold was a 10-year sentence. New criteria have been established on the ability to expel EU citizens on grounds of "public morality."

TRIALS FOR SERIOUS CRIMES JUMP THE QUEUE

¶5. (U) One significant change in the final law was the narrowing of the "trial freeze" or "save-the-Premier" provision. The original decree would have put an automatic one-year freeze on trials for offenses committed before June 30, 2002 and which carry a penalty of 10 years or less. Courts would also have been required to try "serious crimes" immediately. After the judiciary and political opposition protested that this was designed expressly to block court cases against Prime Minister Berlusconi, it was changed to give courts the discretion, not the obligation, to advance the trials for more serious offenses and freeze trials for minor crimes for up to 18 months. Under the new definition, serious crimes are those punishable by 4 or more years in prison, must have been committed after May 2, 2006, and involve mafia and terrorism-related crimes, violations of workplace safety codes, traffic offenses or illegal immigration.

¶6. (U) Another change to legal process is that defendants can plea bargain once their trial is under way, and not just in the initial grand jury phase. This does not apply for such serious offenses as organized crime or murder, and cannot happen during appeal.

NEW MEASURES FOR URBAN SECURITY

¶7. (U) During the election, Berlusconi's coalition promised to improve security in Italian cities. The security package increases penalties for public order offenses such as damage to property. If a public emergency is declared, governments of large cities can ask for soldiers to be deployed to assist the police with patrol and other duties. Up to 3,000 soldiers can be used for up to six months at a time.

ROME 00000960 002.2 OF 002

¶8. (U) Homicide of a member of the security or police forces is now punishable by life imprisonment. Crimes against vulnerable people, including the elderly and disabled, can be treated as an aggravating circumstance.

¶9. (SBU) Forcing others to beg is now a crime; in practical terms this provision is most likely to be aimed at Roma adults who put children on the street to beg. In another measure aimed at Roma in Italy, mayors have been granted the authority to close down illegal camps.

¶10. (U) The penalty for causing injury or death while driving intoxicated has been raised from 3 to 10 years, with driving licenses and vehicles liable to be seized.

LONGER JAIL TIME FOR ASSOCIATING WITH MAFIA

¶11. (U) In addition to fast-tracking, maximum penalties for association with the mafia have been raised from six to eight years in jail, and association with foreign mobs is now covered. People convicted of Mafia-related crimes no longer qualify for free legal aid. While not solely applicable to organized crime, new norms make it easier to destroy seized contraband goods.

SEPARATE LAW GRANTS IMMUNITY

¶12. (U) In return for loosening the trial freeze provisions, a separate law granted immunity from prosecution to the President of the Republic, the Prime Minister, and the Presidents of the Chamber of Deputies and the Senate. The "save-the-Premier" law or "Lodo Alfano" (after Justice Minister Alfano) avoids the ambiguities that led a previous version, the Lodo Schifani, to be knocked down by the Constitutional Court in 2004.

¶13. (U) Under the terms of the Lodo Alfano, new cases cannot be opened against the holders of immunity and ongoing cases are put into abeyance. Officials have immunity for as long as they stay in the post. If the government falls but the prime minister forms another cabinet without holding new elections, immunity remains in effect. Time spent in office does not affect the statute of limitations, as the clock is stopped while these office holders are in government and is restarted again once immunity is lifted.

FINGERPRINTING IS COVERED IN BUDGET LAW

¶14. (C) The proposal to include fingerprints on national identity cards has been included in an amendment to the budget law, which is still in parliament. Nationwide fingerprinting was proposed to deflect the outcry over fingerprinting the largely Roma residents of illegal camps in Naples, Rome and Milan with no valid identification papers. The current fingerprinting initiative has been narrowed repeatedly in response to legal and public challenges, and some records that were initially gathered will likely now be destroyed.

COMMENT

¶15. (C) The government's legislative program over the past three months set the stage for a fall program of ambitious reforms. Berlusconi's center-right coalition campaigned hard and effectively on a law-and-order platform that promised to deal severely with mobsters, hoodlums and immigrants who commit crimes in Italy. The security law allows the government to say it has delivered on a core campaign promise. No matter how controversial, opinion polls indicate the Italian public wants and supports the security package. Looking ahead to the fall parliamentary session, the immunity law could free Berlusconi to move his agenda forward without the personal and media distraction of pending court cases.

END COMMENT.
SPOGLI